

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FAYETTEVILLE DIVISION

UNITED STATES OF AMERICA

PLAINTIFF/RESPONDENT

Civil No. 05-5031
Criminal No. 03-50057-001

WALTER W. FISCHER

DEFENDANT/MOVANT

ORDER

Comes on for consideration the motion of Walter W. Fischer for substitution of counsel and bond.

The motion for substitution counsel is denied as the court has no reason to believe that Jack Schisler, Assistant Federal Defender who serves this district, will not adequately represent Fischer at the hearing. The claims are that the plea was unknowing and involuntary because defense counsel promised a lesser sentence than was received, counsel led Fischer to believe that the plea was not based on a specific amount, and counsel did not make Fischer aware that enhancements would increase punishment. The second and third claims contend that counsel failed to file an appeal after being advised to do so. Necessary witnesses for the hearing are Fischer and the attorneys who represented him. Also, Fischer's wife may be called if she has information about discussions between defense counsel and Fischer prior to the plea or any discussions of an appeal. Also, any documents tending to uphold Fischer's version of facts about the discussions are relevant. This court will carefully monitor the witnesses to be called at the hearing and will only allow witnesses with direct information on the discussions between Fischer and his counsel to be called.

The motion for bond is denied. Like numerous other § 2255 litigants who are transported to and from his district to their places of confinement, Fischer will have his claims heard and decided in a timely fashion and he will be represented by counsel. Fischer has no need to be free pending the hearing.

IT IS SO ORDERED this 3rd day of October 2005.

/s/Beverly Stites Jones
HON. BEVERLY STITES JONES
UNITED STATES MAGISTRATE JUDGE